IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 7363 OF 2005

Rajshree Aman Hemani @ Rajeshwari
Aman Hemani .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.Shyam Dewani with Mr.S.A.Dedanwala for applicant
Mr.S.S.Pednekar, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 22nd November 2005.

P.C.

. Applicant is a lady of 32 years and

presently in custody at Byculla jail. She was arrested on 21st September 2005 in connection with Crime No.92 of 2004 registered with G.B.C.B. C.I.D. Economic Offences Wing Unit II, Mumbai for offences punishable under section 420, 467, 468, 471 read with sections 511 and 34 I.P.C. She was remanded to police custody till 3rd October 2005 and thereafter she is in magisterial custody.

2. The F.I.R. Annexure A has been perused with the assistance of Mr.Devani for applicant and Mr.Pednekar, A.P.P. Wife of one Gautam Nanawati who is complainant alleges that some persons approached her and introduced themselves. One of them was Mr.Jayesh Shah, proprietor of Saket Corporation which is having its office at Kandivali. Said Mr.Shah is finance broker. He wanted to meet husband of complainant Gautam. Said Shah produced before the complainant and her husband photocopies of power of attorney executed

in favour of the husband of present applicant Aman Hemani. The said Aman was shown as residing in 602, Varun Apartment, Versova, Mumbai. The power of attorney was accompanied by a valuation report prepared by Vinod Patni. Photocopies of Property Register Card and other documents were also produced. The complaint is that all these documents are forged inasmuch Bungalow of the said Nanawati was never mortgaged nor they obtained any finance or credit facility by offering the same as security. They have absolutely no transaction and no connection of whatsoever nature with the persons approaching them and, therefore, they complained that an attempt was made to grab the property with forged documents by the husband of applicant, said Jayesh Shah and Vinod Patni.

3. While it is true that the applicant and her husband are accused of similar offences in C.Rs. which are registered at various police

stations in Nagpur, Mr.Dewani submits that the applicant has not been detained with regard to them. He also pointed out that although investigations are incomplete, transaction as far as the said F.I.R. is concerned does not name the applicant but her husband. He has also pointed out that applicant is mother of four year old and suffering from neurogenetic bladder. She is under some treatment and the aforesaid treatment is not available in jail hospital.

4. As far as the present C.R. is concerned, the applicant has not been named therein. Although, investigations are incomplete, the applicant being lady has been detained from 21st September 2005. Even if some role is attributed to the applicant insofar as power of attorney is concerned, I am informed that the said documents have been seized and investigations are in progress as far as said Jayesh Shah, Vinod Patni are concerned.

5. While it is true that the sessions court has observed in its order that the loan application was submitted by the applicant, beyond that there is no prima facie finding against her. In fact, F.I.R. if perused, it is seen that the complainant has not stated clearly insofar as the role of applicant is concenred.

6. In my view, considering the fact that applicant is house wife and she being not directly charged with the offence, this is a fit case for grant of bail. However, the applicant being permanent resident of Nagpur and several cases being filed against her husband, stringent conditions have to be imposed. There is substance in the contention of A.P.P. that unless local surety is directed to be furnished, it will be difficult to secure her presence at the trial. Accordingly following order:-

i) The applicant shall be enlarged on bail in connection with C.R.No.92 of 2004 registered with G.B. C.B., C.I.D., Economic Offence, Unit II, Mumbai in the sum of Rs.50,000 with one or two local sureties in the like amount.

ii) Bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

iii) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

iv) Any observations made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) Application is disposed of in the above terms.

vi) The parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)